IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 29196 of 1995

Between:

Mr. Karri Suraiah, S/o Appaiah,
Gannavaram, Gowridevipet Mandal,
Bhadrachalam Mandal, Khamam District.

..... PETITIONER

AND

1 The Mandal Development Officer,
Bhadrachalam Mandal, Khamam District.
2 The Junior Engineer,
Panchayat Raj, M.D.O. Office,
Bhadrachalam.
3 The Special Officer
Bhadrachalam Mandal, M.D.O. Officer ,
Bhadrachalam, Khamam District.
4 The Sarpanch,
Gannavaram Gram Panchayat, Gannerukoyyalapadu (Post)
Bhadrachalam Mandal.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more in the nature of mandamus declaring the action of the respondents in not paying the compensation of Rs.24,00/- with interest at the rate of 18% per annum from the agricultural years, 1992, 1993 and 1994 to the petitioner after denying my right to raise crop in the land situated at Gannavaram Village, Gowridevipet, in R.S.No. 153/1, to an extent of Ac.1.50 cents by raising the bund of the tank and due to which the land was submerged as highly illegal, arbitrary and violative of Art. 14, 19, and 21 of the Constitution of India and consequentially to direct the respondents to take appropriate steps immediately to pay the amounts forthwith and to Pass...

Counsel for the Petitioner: MR.P.V.RAMANA
Counsel for the Respondent No.: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORAL ORDER:

The petitioner claiming to be the owner and possessor of land in Sy.No.153/1 admeasuring Ac.2.20 cents has filed this writ petition claiming damages and also for further direction to notify that the land in an extent of Ac.1.50 cents is coming under submergence in view of the raising of the bund of Rai Kunta Tank, a Government source of irrigation.

It is the case of the petitioner that the bund was raised by utilizing the funds of Jawahar Rojgar Yojana in the year 1991 and in view of the raising of the said bund, the land of the petitioner to an extent of Ac.1-50 cents is coming under submergence and is deprived of cultivating the land without following the due process of law and without imitating the proceedings under the Land Acquisition Act.

On behalf of the respondents, counter affidavit is filed denying the very rising of the bund as alleged and more particularly by utilizing the funds of Jawahar Rojgar Yojana. Further, it is stated that the land of the petitioner is 500 feet away from the tank and it is situated at upper level and the land of the petitioner will not come under submergence, at times when tank is completely filled.

Hence, the respondents have denied the very submergence and rising of the bund as alleged by the petitioner. Hence, he is not entitled for the relief sought for in a petition filed under Article 226 of the Constitution of India. In view of the stand of the respondents in the counter the factual disputes whether the land of the petitioner has come under submergence or not, whether the bund of the tank is raised or not are matters which are to be adjudicated in an appropriate proceedings if the petitioner approaches Civil Court. In view of the stand taken by the respondents denying the very rising of the bund and submergence of the land of the petitioner, the petitioner is not entitled for any relief in this petition.

The writ petition is devoid of merits. Accordingly the writ petition is dismissed. However, if the petitioner is deprived of possession of any part of the land, in view of the submergence as alleged, it is open for him to institute

appropriate civil proceedings for the relief sought for.

_____

17-1-2005

asp

To:

1 The Mandal Development Officer,
Bhadrachalam Mandal, Khamam District.

2 The Junior Engineer,
Panchayat Raj, M.D.O. Office,
Bhadrachalam.
3 The Special Officer
Bhadrachalam Mandal, M.D.O. Officer ,
Bhadrachalam, Khamam District.
4 The Sarpanch,
Gannavaram Gram Panchayat, Gannerukoyyalapadu (Post)
Bhadrachalam Mandal.

5. Two C.Cs to G.P. for Panchayat Raj and Rural

Development(OUT)

6. Two C.D. copies